

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ROSEZINA WILLIAMS, <i>Plaintiff,</i>	§ § § § § § § § §	CIVIL ACTION H-05-2540
vs.		
GREENSPPOINT DEPARTMENT OF HUMAN SERVICES, <i>et al.</i> , <i>Defendants.</i>		

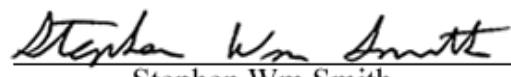
MEMORANDUM AND RECOMMENDATION

Before the court is defendant Greenspoint Department of Human Services's motion to dismiss (Dkt. 6) plaintiff Rosezina Williams's complaint. Greenspoint contends the complaint should be dismissed for lack of subject matter jurisdiction, for failing to state a claim for which relief can be granted, and for insufficient service of process. There has been no response to the motion to dismiss, which was filed on August 30, 2005, and so the motion is treated as unopposed. *See* S.D. Tex. Loc. R. 7.4 ("Failure to respond will be taken as a representation of no opposition").

More than 120 days have passed and the defendants still have not been formally served with the complaint. Thus, the motion appears well-taken on that ground. *See* FED. R. CIV. P. 4(m). Williams also failed to appear at a Rule 16 scheduling conference on December 14, 2005, to offer reasons why the motion should not be granted. Therefore, the court recommends that the motion be granted, and that the case be dismissed without prejudice due to insufficient service of process.

The parties have ten days to file written objections. Failure to file timely objections will preclude appellate review of factual findings or legal conclusions, except for plain error. *See* FED. R. CIV. P. 72.

Signed on December 14, 2005, at Houston, Texas.


Stephen Wm Smith
United States Magistrate Judge